

A. Needs Assessments

The local action plan proposals characterized the barriers faced by self-represented litigants by grouping their needs into six basic types: (1) access to legal information; (2) language access; (3) distance/geographic access; (4) income to afford private assistance; (5) training of court staff; and (6) settlement assistance.

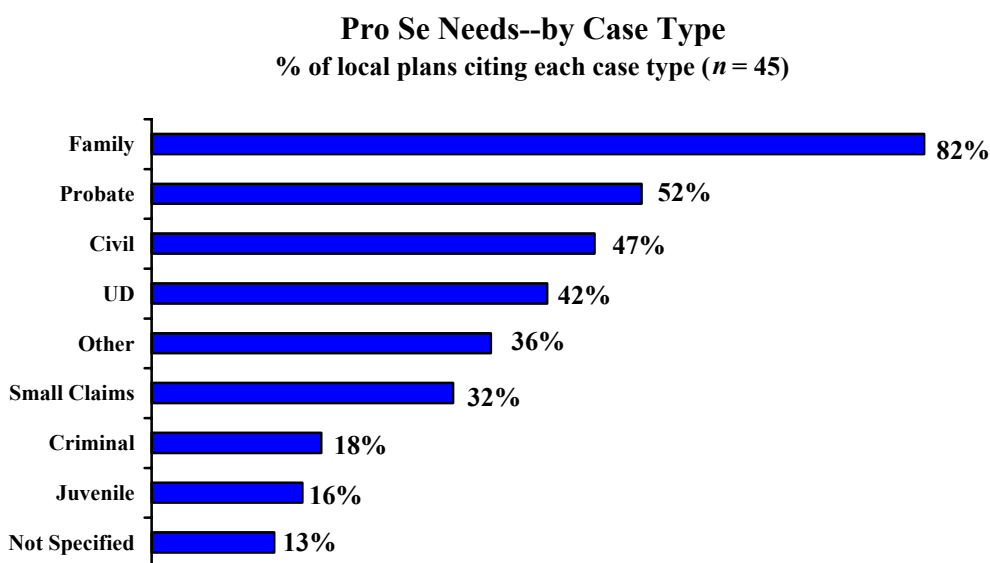
1. ACCESS TO LEGAL INFORMATION

Lack of access to legal information for pro se litigants was the central theme in all the action plans that were submitted. Forty-nine percent of the plans specifically mentioned lack of information access in their needs assessment sections; the other 51 percent addressed it in their program designs.

The smallest counties (those with fewer than five judicial positions) expressed this concern more frequently in their needs assessments. These courts also reported a serious shortage of community resources for pro se litigants, particularly legal aid services. This lack of community resources tends to differentiate smaller, rural counties from larger, urban ones. There were no counties with more than 50 judicial positions that expressed a primary concern with a lack of community resources per se. In the large counties, the lack of access to legal information seemed to be attributed more frequently to the enormous numbers of people needing services compared to the size of the available services, and to language barriers.

Case Types

Most of the local action plans assessed the needs of self-represented litigants in terms of the case types in which they most frequently appear.



All the courts except the largest group reported that the greatest need for services is in the family law area. The largest courts cited unlawful detainer, small claims and civil cases as the ones where self-represented litigants have the greatest needs. The medium-sized and large courts were more likely to cite the need for services in probate guardianship and conservatorship cases. These differences among counties may be related to the greater availability in large counties of community-based services for self-represented litigants in family law. Another significant factor may be the fact that many smaller counties often have only a part-time family law facilitator,¹⁰ or a facilitator funded only to assist with matters of child support. The larger counties have had full-time facilitators and have been better able to provide the additional funding required to allow the facilitators to expand services beyond just child support.

Among the cases making up the “Other” category were bankruptcy, SSI, immigration, appeals, tax, workers’ compensation, and other public benefits.

There were eight counties that reported needing services in the criminal area for self-represented litigants. In seven of these, the assistance proposed was for traffic court matters. One county did not specify the types of criminal cases considered.

Five of the courts that specified needing services in family law cases indicated that they would seek to provide services in other, unspecified civil cases. Six courts did not specify which case types involved the most difficulty for self-represented litigants.

Size of the Demand for Self Represented Litigant Services in California

The only uniform data available about the size of the pro se population in California comes from the California Family Law Facilitator Survey Project.¹¹

Although family law facilitators are funded specifically to provide assistance with child support-related issues, many courts have provided additional funding for these programs that allows them to offer assistance with other aspects of family law. The Family Law Facilitator Survey Project gathers uniform data from these programs monthly. Statewide, family law facilitators provided services to 463,680 self-represented litigants in calendar year 2002.¹²

¹⁰ Family law facilitators are attorneys who work for the courts, providing information to self-represented litigants with respect to child support. The funding for the family law facilitators limits them to working only on child support-related issues, particularly in title IV-D child support enforcement actions.

¹¹ Family Law Facilitator Survey Project. Data available at the California Judicial Council, Administrative Office of the Courts, San Francisco (2003).

¹² Some of these litigants used the services of facilitators on more than one occasion.

SELF-REPRESENTED LITIGANTS SEEKING HELP FROM THE FAMILY LAW FACILITATORS (FLFs)					
Action Plan/Planning Counties	Number of Counties	Total Population in 2002 ¹³	Percentage of Total Population	Pro Se Litigants Seeking Help From FLFs in 2002	Percentage of FLF Customers in 2002
Smallest < 5 judges	10	291,517	1%	13,608	3%
Small <15 judges	12	1,726,809	5%	32,628	7%
Medium <50 judges	12	8,046,732	24%	129,468	28%
Large 50+ judges	8	22,015,452	65%	246,720	53%
Regional	10	1,167,503	3%	30,312	7%
No Proposals Submitted	6	623,635	2%	10,944	2%
Totals	58	33,871,648	100%	463,680	100%

The 52 courts that have participated in the self-represented litigant action planning process to date cover counties accounting for 98 percent of California's population of almost 34 million people. The family law facilitators in these counties account for 98% of those customers seeking help from facilitators statewide in family law matters. In the action-planning counties, the total number of self-represented litigants seeking help in family law matters from the facilitators in 2002 was 452,736.

California also funds three Family Law Information Centers located in three of the action-planning counties. In fiscal year 2001 – 2002, these Family Law Information Centers served 45,000 self-represented litigants in family law matters not covered by local family law facilitators.¹⁴

It was anticipated in all action plans that the number of self-represented litigants seeking help in family law matters would be very great. Twenty of the 45 action plans estimated the percentages of self-represented litigants in their family law courts. Those estimates ranged from 31 percent to 95 percent. The mean was 67 percent.

Less information was available about the demand for services for self-represented litigants in other areas of civil law. Los Angeles County estimated that it had 282,000 filings per year by self-represented litigants.

¹³ U.S. Census Bureau, *United States Census 2000, Summary File 1*; (<http://factfinder.census.gov>, 3/26/03).

¹⁴ Family Law Information Centers: An Evaluation of Three Pilot Programs, A Report to the Legislature, Judicial Council of California (March 2003), <http://www.courtinfo.ca.gov/programs/cfcc/resources/publications/FLICrpt.htm>

Five of the action plans estimated the percentages of self-represented litigants in unlawful detainer cases. Those estimates ranged from 13 percent to 95 percent. The mean was 34 percent.

Five of the action plans estimated the pro se rates in their probate departments. Those estimates ranged from 6 percent to 55 percent. The mean was 22 percent.

Ten of the action plans estimated the percentage of pro se litigants appearing in their civil departments, both limited and unlimited. Those estimates ranged from 6 percent to 50 percent. The mean was 16 percent.

One court estimated that 40 percent of juvenile dependency litigants appear without attorneys.

Most Helpful Kinds of Services

Self-Represented Litigant Surveys. Six of the courts conducted surveys of self-represented litigants asking them what sorts of services they believe are most useful to them. The choices were (1) staff to answer questions; (2) written instructional materials; (3) Web/Internet assistance; (4) referrals to attorneys; and (5) unspecified other types of assistance.

In all six surveys, litigants rated the availability of staff to answer their questions as the most valuable service. Likewise, in a recent study of three pilot family law information centers in California in which self-represented litigants were similarly surveyed, they responded that staff to answer questions was the most helpful service they had received.¹⁵

In the six action plan surveys, litigants rated written materials, such as forms with instructions and informational brochures, as the second most helpful type of assistance.

The litigants rated assistance on the Internet as third most helpful.

An equal number of survey respondents rated attorney referral and other unspecified services as fourth and fifth most helpful.

Court Staff Surveys. Three courts interviewed their staffs to assess the needs of pro se litigants. Interestingly, the clerks did not agree with the litigants on the priority of staff to answer questions. None of the court staffs rated this as the most desirable service for the court to offer to pro se litigants. Instead, all three groups ranked written materials, such as

¹⁵ id

forms with instructions and informational brochures, as most important for the court to offer.

Two groups ranked other forms of self-help (a walk-in self-help center and Web site information) as the second most important service to offer. Only one group ranked staff to answer questions as the second most important court service to pro se litigants.

Two groups ranked staff to answer questions as third in priority. One ranked attorney referral services as third.

The differences in perception between the self-represented litigants and the court staffs is interesting. Even more interesting are the responses of the court staffs when compared to their other answers about the sorts of information self-represented litigants most frequently requested from them. Two of the three court staff groups responded that pro se litigants most frequently asked for information about their legal options. One group reported that they were most commonly asked for forms; however, information about legal options was a very close second. These are not questions that seem easily addressed without knowledgeable staff available to answer questions. This seeming contradiction may be related to how court clerks have traditionally been trained with respect to answering questions from the public. In most cases, the traditional position is that clerks should not answer the public's questions for fear of inadvertently giving erroneous information or crossing a line into legal advice. Without a clear definition of which answers are information and which are advice, the position has been to simply refrain from answering any questions.

Staffs in three courts were asked what they felt was the most frustrating aspect of their jobs with respect to pro se litigants. In all three surveys, the court staffs responded that having to refuse to answer questions for pro se litigants when they knew the answers was the most frustrating. Also, in all the surveys, the court staffs responded that the most rewarding aspect of their jobs was feeling that they had been helpful to a litigant and that the litigant was appreciative of the help.

The frustration of court staffs in dealing with self-represented litigants may also express itself in the way responsibility for difficulties is attributed. For example, court staff members in the two surveys were asked what the greatest obstacles were for a pro se litigant outside the courtroom. In one of the groups, respondents seemed ready to place responsibility on the self-represented litigants for much of their own difficulties with the court. Here are some examples of their responses:

- a. Self-represented litigants are unable to follow directions.
- b. Self-represented litigants don't understand the legal procedures.
- c. Self-represented litigants are hostile.
- d. Self-represented litigants are unwilling to seek outside legal advice.

Asked what the obstacles inside the courtroom were, they responded:

- a. Self-represented litigants don't pay attention.
- b. Self-represented litigants don't understand the law.
- c. Self-represented litigants don't understand why they are in court.
- d. Self-represented litigants don't know how to present information.
- e. Self-represented litigants are late for court.

Responses such as these were more frequent from staff members in the largest courts. Those are the courts where the enormous numbers of pro se litigants can be routinely overwhelming to the court staffs.

One study of judges may have relevance to this situation. It was found that when judges felt unable to spend adequate time hearing a case due to large caseloads and felt as if they were simply processing people, there was a tendency for these judges to withdraw their empathy and respect for the litigants.¹⁶ The frustration of these judges is not dissimilar to that common among court staffs and may contribute to an array of negative perceptions of the pro se population. Insufficient staffing can add greatly to the frustration of both court personnel and the public.

Judicial Surveys. One court conducted a survey of its judicial officers with respect to the needs of pro se litigants. The judges who responded to that survey agreed with the self-represented litigants that the most helpful assistance was the availability of staff to answer questions. The second most helpful type of service was written materials, such as forms with instructions. The judges also reported that the type of information pro se litigants requested most frequently from them was information about their legal options.

In accord with the judges in this survey were 24 judges who were surveyed as part of the recent evaluation of the three pilot Family Law Information Centers. These judges were on family law assignments in all three counties. When asked what services they thought were most beneficial to the litigants, they reported that, aside from improvement in paperwork, having staff to answer their questions was the most beneficial to the litigants. Comments included:¹⁷

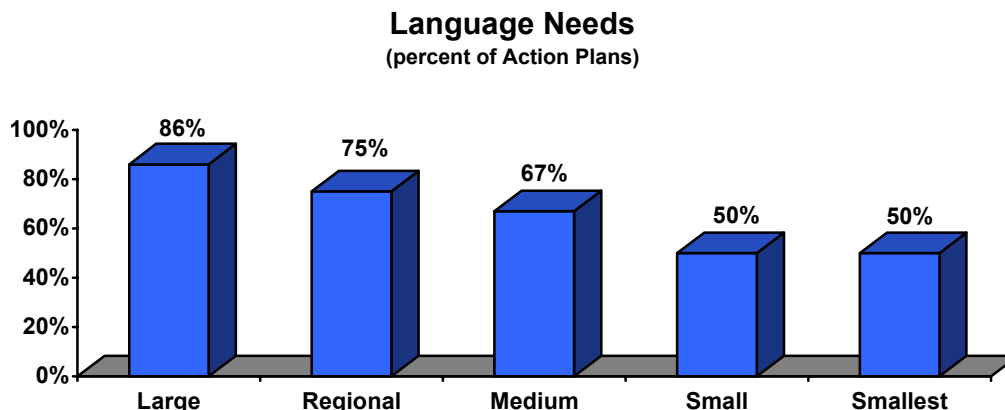
- “It gives the litigant the ability to sit down with someone who can provide guidance.”
- “It is important that they have a live person who pays attention to them and provides accurate information.”

¹⁶ I. M. Zimmerman, Stress—What It Does to Judges and How It Can Be Lessened (1981) 20. *Judges Journal*, 4 – 9.

¹⁷ Family Law Information Centers: An Evaluation of Three Pilot Programs, A Report to the Legislature, Judicial Council of California, March 2003. <http://www.courtinfo.ca.gov/programs/cfcc/resources/publications/FLICrpt.htm>

2. LANGUAGE ACCESS

All of the action plans mentioned the need for language access—translation of written materials, videos, and other self-help materials into a variety of languages. The non-English language mentioned most frequently was Spanish.



Twenty-nine of the local action plans (64 percent) cited language in the needs assessment as a particularly important barrier for the self-represented litigants in their courts. Among the largest courts, 86 percent of the plans cited language access as a pressing need for the public.

The percentage of action plans citing language access in the needs assessment section increased with the size of the court responding. After large courts, the next largest percentage of action plans citing language access as a primary need came from the regional court groups, followed by the medium sized courts. The courts with fewer than 15 judicial positions were less likely to cite language barriers in their needs assessments.

3. GEOGRAPHIC/DISTANCE ACCESS

Twenty-six (58 percent) of the local action plans described serious problems self-represented litigants have in getting to locations where services are available.

Most of the counties that cited geographic difficulties proposed either physical helps, such as outpost facilities, mobile vans, or transportation to the courthouse, or the use of communications technology, such as telephone help lines, video-conferencing, or Web-based information systems. Most of the proposed solutions involving the physical helps came from the medium and large courts. Smaller courts tended to rely more heavily on technological solutions.

4. SELF-REPRESENTED LITIGANTS' INCOME

Nineteen of the 45 local action plans (42 percent) specifically referred to self-represented litigants' lack of financial resources. This lack was cited more often in the needs

assessments of the smaller counties (50 percent). All of the smaller counties that cited a shortage of available community resources also cited a lack of money as a barrier to legal information for the pro se population. Two of the three regional plans also cited a lack of money as a serious pro se issue. The large (29 percent) and medium (25 percent) counties cited lack of money for pro se litigants in their needs assessment sections somewhat less often

This concern about the lack of money available to the pro se population is supported by demographic data from the family law facilitator survey project published in 2000:

Overall, 82 percent of facilitator customers have a gross monthly income of under \$2,000. Over 67 percent of facilitator customers have gross monthly incomes of under \$1,500. Over 45 percent of facilitator customers have gross monthly incomes of under \$1,000, and approximately one-fifth report gross monthly income of \$500 or less.

In Los Angeles County, 77 percent of the customers report gross monthly incomes of under \$2,000. Approximately 62 percent of Los Angeles customers report gross monthly incomes of under \$1,500, 35 percent have incomes under \$1,000, and 23 percent report incomes of \$500 per month or less.

Rural counties, particularly in Central California, with populations between 100,000 and 499,000, report the highest percentages of customers with incomes under \$1,000 per month. Over 50 percent of facilitator customers in these counties report incomes that fall within this range. The highest percentages of monthly incomes of \$500 or less were also reported in these counties.

Only 18 percent of facilitator customers overall have gross monthly incomes of over \$2,000. The highest percentages of those reporting gross monthly incomes between \$2,000 and \$3,000 per month are in urban counties (11.9 percent) and counties with populations over 1 million (12.7 percent) in both Southern California and the Bay Area. Los Angeles reports that 15 percent of its customers are in this income group. Only 6.8 percent of customers report gross monthly incomes of over \$3,000. The highest percentages in this category are reported by counties with populations between 500,000 and 1 million (7.9 percent), primarily in the Bay Area (11.2 percent) and in Los Angeles County (8 percent). This suggests that facilitators in areas where the cost of living is higher and legal representation is more costly may see more individuals in this category. Nevertheless, in all but two Bay Area counties where the cost of living is extremely high, over 90 percent of facilitator customers had gross monthly incomes under \$3,000.

For the most part, facilitator customers are not likely to have income sufficient to afford full-service legal representation; however, their incomes may be just high enough to make them ineligible for assistance from Legal Services Corporation or IOLTA-funded legal services programs.¹⁸

¹⁸ Harrison, F., Chase, D., Surh, T. (2000) California's Family Law Facilitator Program: A New Paradigm for the Courts, *Journal of the Center for Families, Children & the Courts*, Vol. 2, p. 76

In 2003 another cohort of self-represented litigants in family law was studied as part of an evaluation of three pilot Family Law Information Center programs. In that study, it was again reported that the majority of litigants had gross monthly incomes below \$2,000. In the three counties studied, the percentage of self-represented litigants with incomes under \$3,000 per month greatly exceeded the percentage of the general population with such incomes in those counties, according to the 2000 U.S. Census. The study also found that approximately 80 percent reported not being able to afford an attorney. Approximately half had tried to get help elsewhere and had been unsuccessful.¹⁹

5. TRAINING FOR COURT STAFF

Fourteen of the local action plans (31 percent) cited lack of training of court staff as a serious problem for self-represented litigants. None of the small or smallest counties mentioned this in the needs assessment. One of the regional plans mentioned lack of staff training in its needs assessment. Eight (67 percent) of the local action plans from medium-sized counties and three (43 percent) from the large counties cited training as a serious issue.

Two of the large courts that conducted staff surveys asked staff members about the manner in which they were trained. The choices were: (1) “learn as you go,” (2) verbal instructions from supervisors, and (3) written policies and procedures. In both counties the majority of court staff reported that they were trained by the “learn as you go” method. In one of the counties, only 41 percent of the responding staff felt very confident that they understood how much help they could actually give a pro se litigant. In the other county, 42 percent either were not confident they understood how much help they could give a pro se litigant or felt confident but would like more training.

6. SETTLEMENT ASSISTANCE

Thirteen of the local action plans (29 percent) mentioned the lack of services available to help self-represented litigants reach agreements in their cases. The small and medium-sized counties were most likely to cite lack of settlement services in their needs assessments. Half of these went on to include settlement/mediation services in their program designs. One of the regional plans mentioned lack of settlement services but did not include a settlement component in its program design. None of the large counties mentioned lack of settlement services in the needs assessment; however, one of the large counties did include it as part of the case management component in its program design.

¹⁹ Family Law Information Centers: An Evaluation of Three Pilot Programs, A Report to the Legislature, Judicial Council of California, March 2003. <http://www.courtinfo.ca.gov/programs/cfcc/resources/publications/FLICrpt.htm>